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C O N F I D E N T I A L SECTION 01 OF 03 DHAKA 001234

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SUBJECT: ANATOMY OF THE EXTORTION CASE AGAINST SHEIKH HASINA

REF: DHAKA 1161

Classified By: Charge d'Affaires a.i. Geeta Pasi; reasons 1.4(d)

¶1. (C) SUMMARY. On July 16, Awami League leader and former Prime Minister Sheikh Hasina was detained by police and brought before a Dhaka magistrate, where she was accused of abetment in an extortion case. Authorities provided the Embassy with copies of evidence, including the confession of Sheikh Hasina's cousin, Sheikh Fazlul Karim Selim, copies of checks and other bank documents. Lawyers familiar with the case believe there was sufficient evidence presented in the charge sheet to prosecute the case. END SUMMARY.

AN ARREST DONE BY THE BOOK

¶2. (SBU) Awami League president and former Prime Minister (1996-2001) Sheikh Hasina Wazed was arrested by police at her residence in Dhaka in the early morning of July 16. She was brought before a Dhaka city magistrate later that morning. The court confirmed that the charges against Hasina were in order and that her detention was in accordance with the law. It was also announced that the Anti-Corruption Commission (ACC) will prosecute the case on behalf of the government.

¶3. (SBU) Hasina's son Sajeeb Wazed "Joy" has alleged authorities acted illegally in arresting Hasina without a warrant. According to the Bangladesh Code of Criminal Procedure, however, a person can be arrested without warrant for a "cognizable" (serious) offense, which would include the charge against Hasina of abetting extortion. When such cases occur, the arresting officer must present the arrestee before a magistrate having jurisdiction of the case within 24 hours. The judge must then recognize the case as cognizable and verify the arrest order, which is what happened in this case. Authorities presented Hasina immediately before a magistrate, thus complying with the Code's provisions.

SPECIAL EMERGENCY POWERS RULES

¶5. (SBU) The government brought the case against Hasina under the Special Emergency Powers Rules of 2007. These rules, enacted by the government after the declaration of a state of emergency, suspend the right to bail in cases involving serious criminal charges. The court must dispose of cases filed under this rule within 45 days of the framing of charges, with a 15-day extension possible if required.

¶6. (SBU) On July 29, Hasina's attorneys filed a writ petition with the High Court challenging the government's decision to

charge her under the Special Emergency Powers Rules. Counsel claim the decision was arbitrary and unconstitutional. The High Court has agreed to accept the writ petition and rule on it. (NOTE: The petition does not challenge the actual extortion case, only the handling of it under the special rules, since this denies her the right to bail.)

ANATOMY OF AN EXTORTION CASE

¶ 7. (SBU) On June 13, Azam Chowdhury, managing director of Eastcoast Trading Private Ltd., filed a first incident report (FIR) against Hasina and her cousin, Awami League Presidium member and former Health Minister Sheikh Fazlul Karim Selim. He accused them of extorting 29 million taka (approximately \$430,000) from him in 2000 and 2001 (Reftel).

¶ 8. (SBU) Selim was arrested on May 28. On June 21, he made a confessional statement in open court. According to Selim's statement, a copy of which was provided to the Embassy, Selim admitted to receiving the 29 million taka from Eastcoast on behalf of its client, the Russian company Techno Prom Export (TPE), which was building a \$27 million power plant in Narayanganj. Selim told Hasina, who was then Prime Minister and Minister for Power, Energy and Natural Resources, that he was acting as a "consultant" on the project, and informed her of the "commission." She agreed to have the block on the power project removed. According to Selim, Hasina asked him to give to her sister Sheikh Rehana the ten million taka (\$145,000) he had set aside for her.

¶ 9. (SBU) The prosecution formally filed its charge sheet against Hasina, Selim, and Rehana on July 24. Rehana,

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currently resident in London, is not in police custody. The prosecution included names of 24 witnesses and an extensive list evidence including records of the power project, bank checks made out to cash, bank deposit slips into Selim's accounts corresponding exactly to the amounts of the cash checks, and official visitors logs from the official Prime Minister's Residence showing Selim's and Rehana's visits to Hasina during the period the transactions took place. (NOTE: When she was arrested, Hasina denied Rehana was in Bangladesh during this timeframe.)

¶ 10. (SBU) When the charge sheet was filed, the judge set the date of August 15 for a hearing to accept the charge sheet and schedule a hearing to "frame the charges" -- which will start the criminal trial. This was subsequently rescheduled for August 16 so as not to coincide with the August 15 anniversary of the assassination of Hasina's father, former President Sheikh Mujibur Rahman, and the killing of most of her family in the 1975 coup.

¶ 11. (C) On July 25, police detained Hafez Ahmed "Khoka," a businessman with close ties to Hasina and Selim. Khoka was the man who signed the checks on Selim's behalf. Khoka was presented before a magistrate on July 29 and submitted a confessional statement in which he admitted his role in the deal and corroborated Selim's confessional statement. An ACC prosecutor told us they are confident he will make a strong prosecution witness.

PROSECUTION AND DEFENSE PERSPECTIVES ON THE CASE

¶ 12. (C) Prosecutors have told us they believe they can get a conviction against Hasina under Section 385 of the Bangladesh Penal Code, abetting extortion. The term of imprisonment is five to 14 years. According to the Code, this charge must involve either intent or dishonest inducement. According to the prosecution, Selim's inducement created fear in Chowdhury that he would lose his business if he did not pay. Hasina was not involved in inducing the fear, but is accused of having known, approved of, and supported it.

¶13. (C) The prosecution will argue Hasina knew about the inducement and sanctioned it (since Selim told her and she permitted him to stay on as a Minister). Furthermore, at the time Hasina held the Power Ministry portfolio, and as such had the power to restart the power project in question.

¶14. (SBU) The prosecution says it can prove through bank and government records that the reactivation of the power project by Hasina coincided with the checks deposited into Selim's accounts. Lastly, the prosecution will argue Hasina's permitting Selim to remain Health Minister after admitting to her he was acting as "consultant" and getting fees from this project constituted tolerance and abetting of graft.

¶15. (C) Shortly after the initial FIR was filed on June 13, Hasina told the press that the money in question in this case was a contribution to the party, "something done all over the world." Her defense is expected to argue, however, that Hasina knew nothing about the matter since Selim handled it. (NOTE: This is Joy's main argument against the arrest.) The defense is also expected to claim Selim's confessional statement was obtained under duress.

MEANWHILE, ANOTHER CASE PERCOLATES

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¶16. (SBU) In another development on July 29, a Dhaka metropolitan magistrate ordered Hasina to be brought to court to be arrested on another case under investigation. This case was brought by former Hasina loyalist and Dhaka businessman Noor Ali (reftel). Ali filed a FIR against Hasina claiming he was forced to pay Hasina and another of her cousins, Sheikh Helal, over 50 million taka (\$725,000) and hand over ownership of two apartments to Helal's wife in 1998 to resolve a dispute between the government and his company, which was building a 110-megawatt barge-mounted power plant at the time.

COMMENT: COURT OF LAW V. COURT OF PUBLIC OPINION...

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¶17. (C) If the charges are to be believed, this case clearly lays out how corruption takes place within the Bangladeshi

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government. That this involved a power project should make this case all the more incendiary, given the country's current power generation deficit. Contrary to Joy's allegations, the prosecution appears to have enough evidence to pursue charges against Hasina, and they are confident they can prove their case in court beyond the required reasonable doubt. The problem is whether the government can successfully argue the case in the court of public opinion, convincing the people this case has merit and is not just a political reckoning for Hasina.

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